

THE HONORABLE MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

ADSCEND MEDIA, LLC, a Delaware  
limited liability company; and JEREMY  
BASH and FEHZAN ALI, individually  
and as Managing Members of  
ADSCEND MEDIA LLC,

Defendants.

NO. 2:12-cv-00139-MJP

REPORT OF THE PARTIES'  
PLANNING MEETING

1. The Fed.R.Civ.P. 26(f) conference was held telephonically on March 21, 2012.

Plaintiff was represented by Assistant Attorney General Paula Selis. Defendants were represented by Mark Rosenberg. Counsel for the parties participated in the creation of this Report of the Parties' Planning Meeting.

2. The parties agreed that initial Fed.R.Civ.P. 26(a) disclosures are to be exchanged on or before April 16, 2012.

3. The parties propose this discovery plan:

a. Discovery will be needed on Plaintiff's claims that Defendants have violated the CAN-SPAM Act, the Unsolicited Commercial Email Act, and the Consumer Protection Act. Defendants intend to serve discovery requests regarding, but not necessarily limited to, the basis of the Plaintiff's claims and Defendants' potential affirmative defenses.

b. Disclosure of electronically stored information should be handled as follows: The following procedures shall apply to the electronic format of production, in one of the following forms and formats. Currently supported electronic data formats are listed below (in order of preference):

- i. In a Summation file structure in appropriate document formats, together with all .dii files needed to load produced documents into a Summation database;
- ii. Adobe Reader files (.pdf) – OCR Enriched (searchable PDF);
- iii. Microsoft Word files (.doc), Microsoft Excel files (.xls), Microsoft PowerPoint files (.ppt), Text files (.txt), Tagged Image Format files (.tiff). Supported data formats for word-processing files include Microsoft Word 2007 or prior versions. Supported data formats for spreadsheet files include Microsoft Excel 2007 or prior .xls files;
- iv. Electronically-stored data shall be submitted on a generally supported storage medium. Currently supported storage media include the following: CD-readable disks formatted to ISO 9660 specifications and DVD-ROMs; and
- v. Documents produced in electronic format must (a) be properly identified; (b) be produced in a format that accurately captures each version of the document, including handwritten notes, signatures, etc.;

(c) include all associated electronically-searchable text files for the document; (d) include all metadata associated with the document; and (e) include all attachments

c. The parties agree that discovery shall take place in phases. The first phase of discovery shall be limited to interrogatories and requests for production of documents and things. This phase shall conclude on June 21, 2012. Thereafter, the parties may seek any form of discovery provided that all discovery is completed by February 4, 2013. All motions related to discovery issues shall be filed and served no later than February 28, 2013.

d. The parties agree that no changes or additions should be made to the limitations to discovery imposed under the Federal Rules of Civil Procedure and the Local Civil Rules. Each side agrees to take a total of up to ten (10) depositions, provided however that each of the parties reserves its right to seek permission to take additional depositions if such depositions are warranted.

e. The parties agree that any reports of expert witnesses shall be exchanged by December 1, 2012 and that any reports of rebuttal expert witnesses shall be exchanged by January 1, 2013.

4. Other items:

a. The parties do not anticipate joining any additional parties at this time, and suggest that the Court set a September 30, 2012 cutoff date for joining additional parties. Plaintiff reserves the right to join additional parties until the cutoff date

b. The parties agree that the final date for filing dispositive motions is March 4, 2013.

c. The parties are currently engaging in active settlement negotiations and believe the prospects for settlement are good.

c. The parties agree to submit these matters to mediation pursuant to Local Rule CR 39.1 should settlement negotiations fail.

d. The parties agree that the final date for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists shall be March 4, 2013.

e. The parties agree that the final date for filing objections pursuant to Rule 26(a)(3) by April 4, 2013.

f. The parties agree that this matter will be ready for trial on May 4, 2013. Defendants estimate the length of trial will be five (5) court days. Plaintiff estimates the length of trial will be ten (10) court days.

g. The parties do not request a scheduling conference prior to this order being entered.

DATED this 28<sup>th</sup> day of March, 2012.

Respectfully submitted,

**CarpeLaw PLLC**

**STATE OF WASHINGTON**

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